IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.180 OF 2007

Jayant Ramchandra Kale ...Applicant.
V/s.
The State of Maharashtra & Anr. ...Respondents.

Shri H.K.Palwe, adv. for the Applicant.
Smt.V.R.Bhosale, APP for the State.
Shri Mukesh V. Aiya, adv. for the Respondent No.2.

CORAM: J.H.BHATIA, J.
DATE : 16th March, 2007.

P.C.:

1. Heard Mr.Palwe, the learned counsel for the applicant and Shri Mukesh , the learned counsel for the respondent no.2.

2. The applicant is a builder and he had taken money from the respondent no.2, who is the original complainant, with assurance that he would construct building and allot him a flat. He did not make construction and finally the applicant issued a cheque of Rs.5 lakhs in favour of the respondent no.2 on 9-10-2004. The cheque was dishonoured and in spite of notice, the applicant failed to make payment. Therefore, the complaint under Section 138 of the Negotiable Instruments Act was filed. After trial, the applicant was convicted and was sentenced to undergo

S.I. for 9 months and to pay an amount of Rs.5,75,000/- as compensation to the complainant. The said order came to be challenged before the Sessions Court. While admitting the appeal and granting the bail, the learned Sessions Court, Thane directed the applicant to deposit 50% of the compensation amount. The applicant being not satisfied with this condition has preferred the present application.

3. The learned counsel for the applicant states that the applicant is a poor builder and therefore, he is not in a position to make payment of even 50% of compensation amount. It appears that the applicant had taken huge amount from the respondent no.2 and had issued 9 cheques of different amounts. All those cheques have been dishonoured. The applicant is still running business as a builder and is avoiding to make payment of the amount for which, he had issued the cheques. In my opinion, the Sessions Court has already shown sufficient leniency to the applicant while permitting him to deposit 50% of the amount. It needs no interference.

4. Application stands rejected.

(J.H.Bhatia,J.)